

BOARD OF COUNTY COMMISSIONERS' (BOCC) CONCURRENCE FORM



This form must be completed for all staff reports being prepared for BOCC meetings/public hearings and is the cover sheet for the staff report. The original (single-sided) staff report needs to be submitted to the County Manager's Office one (1) week in advance of the scheduled presentation date. For Closed Sessions please submit the original (single-sided) and 8 (double-sided copies) of the staff report.

To: Office of the County Manager

From (Name & Division): Beth A. Ramacciotti, Utilities & Solid Waste Mgmt **Phone #:** 301.600.2564

Requested Meeting Date (mm/dd/yr): 5.24.12 **Est. Presentation Time:** 5 minutes

Staff Report Topic:
(The text provided here will also be reflected on the meeting agenda and county's website.)

Canam Steel Corporation Request for Easement on County Property

County Funds Requested/Required: \$ N/A

Type of Meeting:
(Click to place a check mark in the following appropriate boxes.)

☒ Administrative Business (The Consent Agenda Committee determines which items are eligible for the consent agenda.)

☐ Worksession ☐ Closed Session ☐ Public Hearing (a.m. ☐ or p.m. ☐)

☐ BOCC/BOE Mtg. ☐ County/Municipalities Mtg.

☐ Power Point Presentation

Board Action Desired: ☒ Decision ☐ Guidance ☐ Information



Staff Report Review:

This staff report has been thoroughly reviewed first by the appropriate divisions/agencies noted on Page 2 followed by those outlined below :

	<u>Initials</u>	<u>Date</u>	<u>Comments Y/N</u> (Page 2)
<input type="checkbox"/> Budget Officer	_____	_____	_____
<input type="checkbox"/> Finance Director	_____	_____	_____
<input checked="" type="checkbox"/> County Attorney's Office	<u>KRM</u>	<u>5/11/12</u>	<u>N</u>
<input checked="" type="checkbox"/> County Manager	<u>[Signature]</u>	<u>5/14/12</u>	_____

Other Reviewing Divisions/Agencies:

(Click to place a check mark in the following appropriate spaces.)

	<u>Initials</u>	<u>Date</u>	<u>Comments Y/N</u> (noted below)
<input type="checkbox"/> Animal Control			
<input type="checkbox"/> Business Development & Retention			
<input type="checkbox"/> Citizens Services			
<input type="checkbox"/> Community Development			
<input type="checkbox"/> Emergency Management			
<input type="checkbox"/> Fire & Rescue Services			
<input type="checkbox"/> Health Services			
<input type="checkbox"/> Human Resources			
<input type="checkbox"/> Interagency Information Technologies			
<input type="checkbox"/> Internal Audit			
<input checked="" type="checkbox"/> Parks & Recreation		5/10/12	N
<input checked="" type="checkbox"/> Public Works		5/10/2012	
<input type="checkbox"/> Transit Services			
<input checked="" type="checkbox"/> Utilities & Solid Waste Management		5/10/2012	N
Other: _____			
Other: _____			
Other: _____			

Elected Officials or Independent Agencies:

	<u>Initials</u>	<u>Date</u>	<u>Comments Y/N</u> (noted below)
<input type="checkbox"/> Board of Education			
<input type="checkbox"/> Board of Elections			
<input type="checkbox"/> Board of License Commissioners			
<input type="checkbox"/> Citizens Care & Rehabilitation Center/ Montevue Assisted Living			
<input type="checkbox"/> Frederick Community College			
<input type="checkbox"/> Frederick County Public Libraries			
<input type="checkbox"/> Sheriff's Office			
<input type="checkbox"/> Social Services			
<input type="checkbox"/> State's Attorney's Office			

Comments:

1. <u>From:</u> _____	<u>Date:</u> _____
2. <u>From:</u> _____	<u>Date:</u> _____
3. <u>From:</u> _____	<u>Date:</u> _____
4. <u>From:</u> _____	<u>Date:</u> _____
5. <u>From:</u> _____	<u>Date:</u> _____



UTILITIES AND SOLID WASTE MANAGEMENT DIVISION FREDERICK COUNTY, MARYLAND

Department of Engineering and Planning

4520 Metropolitan Court • Frederick, Maryland 21704
(301) 600-2078 • FAX (301) 600-2349 • TTY: Use Maryland Relay
www.FrederickCountyMD.gov

COMMISSIONERS

Blaine R. Young
President

C. Paul Smith
Vice President

Billy Shreve

David P. Gray

Kirby Delauter

COUNTY MANAGER

David B. Dunn

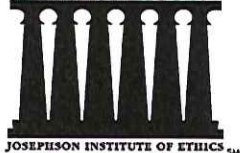
UTILITIES AND SOLID WASTE MANAGEMENT DIVISION

Kevin L. Demosky
Division Director

DEPARTMENT OF ENGINEERING AND PLANNING

Rodney G. Winebrenner
Department Head

CHARACTER COUNTS!



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May 9, 2012

EXECUTIVE SUMMARY

Staff Report Topic: Deed of Easement to Canam Steel Corporation for a private waterline to be installed on a County property

Executive Summary Explanation: Canam Steel Corporation ("Canam") owns and operates a manufacturing plant on Maryland Route 28 in Point of Rocks currently served by wells located on the property. Last year the wells became contaminated and Canam is now in the process of connecting to the County's existing public water line located on a nearby parcel of Open Space in the Canal Run subdivision. In order to make this connection, a private water line is proposed to be constructed across a parcel of land owned by the County in order for the water line to reach the Canam property.

This County property was deeded to the County by Maryland's State Highway Administration in 2006 after a proposed extension of Maryland Route 464 to connect Maryland Route 28 with U.S. Route 15 was not pursued. The County property is currently not utilized for any specific purpose; however, the Board of County Commissioners ("BOCC") has granted rights to the Canal Run Homeowners Association and PV I, LLC to place a parking area and athletic fields on the property.

The proposed Deed of Easement acknowledges the rights for the parking area and athletic fields, allows for relocation of the private water line if necessary due to the County's use of the property, requires water line location markers and includes provisions related to property damage and liability.

Staff recommends the BOCC approve the execution of the Deed of Easement over property owned by the BOCC in furtherance of the aforementioned water line construction.

County Funds Requested/Required: N/A



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COUNTY MANAGER

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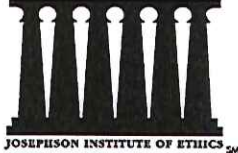
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UTILITIES AND SOLID WASTE MANAGEMENT DIVISION FREDERICK COUNTY, MARYLAND

Department of Engineering and Planning

4520 Metropolitan Court • Frederick, Maryland 21704
(301) 600-2078 • FAX (301) 600-2349 • TTY Use Maryland Relay
www.FrederickCountyMD.gov

MEMORANDUM

TO: Board of County Commissioners (BOCC)

THRU: Kevin L. Demosky, Director, DUSWM *KLD*

THRU: Rodney G. Winebrenner, P.E., Department Head, DUSWM,
Department of Engineering and Planning *RW*

FROM: Beth A. Ramacciotti, Land Acquisition Coordinator, DUSWM, *BAR*
Department of Engineering and Planning

DATE: May 9, 2012

RE: **Canam Steel Corporation Request for Easement on County Property
Frederick County Contract No. 219-W**

ISSUE: Should the BOCC approve the execution of a Deed of Easement to Canam Steel Corporation for a private waterline to be installed on a County property?

BACKGROUND: Canam Steel Corporation ("Canam") owns and operates a manufacturing plant on Maryland Route 28 in Point of Rocks currently served by wells located on the property. Last year the wells became contaminated and Canam is now in the process of connecting to the County's existing public water line located on a nearby parcel of Open Space in the Canal Run subdivision. The public portion of the water line, including a water meter, will end in an area of land owned by the Canal Run Homeowners Association and a small strip of land owned by PV I, LLC. Canam has provided the Deeds of Easement from these property owners. A private water line will then be constructed from the water meter to serve the Canam plant and this private water line will cross a parcel of land owned by the County in order to reach the Canam property.

This County property was deeded to the County by Maryland's State Highway Administration in 2006¹ after a proposed extension of Maryland Route 464 to connect Maryland Route 28 with U.S. Route 15 was not pursued. The County property is currently not utilized for any specific purpose; however, the BOCC did grant rights to the Canal Run Homeowners Association and PV I, LLC to place a parking area and athletic fields on the property as set forth, with other terms and conditions, in a License Agreement dated September 27, 2005².

¹ Deed dated May 17, 2006 and recorded in Liber 6115, folio 746

² Recorded in Liber 5641, folio 570

May 9, 2012

Page 2

The proposed Deed of Easement acknowledges the rights outlined in the aforementioned License Agreement, requires Canam to place markers at the water line location, allows for relocation of the private water line if the County does develop the property in a way in which the water line interferes and includes provisions related to property damage and liability. The easement described in the Deed of Easement and shown on the plat attached thereto consists of a permanent easement containing 2,446 square feet. The Deed of Easement and attached descriptions have been reviewed and approved by DUSWM, DPW and the Office of the County Attorney.

RECOMMENDATION: Staff recommends the BOCC approve the execution of the Deed of Easement over property owned by the BOCC in furtherance of the aforementioned water line construction.

ATTACHMENTS: Aerial Photograph with Vicinity Map
Proposed Deed of Easement

FUNDING INFORMATION:

Budget Implication: No X Yes

Name of Account:

Account Number(s):

Amount of Funding Request:

Other Information Pertinent To This Request: None

DEED OF EASEMENT

THIS DEED OF EASEMENT, made this ____ day of _____, 2012, by the **Board of County Commissioners of Frederick County, Maryland**, a body corporate and politic of the State of Maryland ("**COUNTY**") and **Canam Steel Corporation**, a Delaware corporation ("**GRANTEE**")

WHEREAS, the Grantee owns several parcels of land located along Clay Street in the unincorporated town of Point of Rocks, Frederick County, Maryland, by virtue of a deed to a predecessor in interest to Canam Steel Corporation dated October 14, 1977, and recorded among the Land Records of Frederick County, Maryland in Liber 1032, 468 (collectively, the "Benefitted Property") on which the Grantee operates a steel manufacturing plant; and

WHEREAS, the COUNTY owns an adjoining parcel of land which was previously identified as a portion of land to be an extension of the existing Lockhouse Drive in the Canal Run P.U.D. (the "County Parcel"), and

WHEREAS, the Grantee desires to connect to the existing public water line located on a parcel of land near the County Parcel and to install a private water line (the "Private Water Line") on the County Parcel in order to make this connection and to serve the Benefitted Property with public water, and

WHEREAS, COUNTY is willing to permit, under certain conditions set forth herein, the installation of the aforesaid private water line on the County Parcel;

NOW THEREFORE THIS DEED OF EASEMENT WITNESSETH, that for and in consideration of the sum of Five Dollars (\$5.00) and in further consideration of the mutual promises, covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the COUNTY does hereby grant and convey unto the GRANTEE, its successors and assigns the following:

All that perpetual easement containing 2,446 sq. ft. or .056 acres, more or less, over the lands owned by the Board of County Commissioners of Frederick County, Maryland; being more particularly described on the metes and bounds description attached hereto as EXHIBIT A, and incorporated herein by reference, and being further described and shown on a plat entitled "Easement Plat Showing Water and Sanitary Sewer Easements Crossing Over Lands of Canal Run P.U.D. and Board of County Commissioners of Frederick County, Maryland and PVI, LLC" attached hereto as EXHIBIT B and incorporated herein by reference, said easement being for the purpose of constructing, installing, maintaining, repairing, replacing, altering and operating a private water line to serve the Benefitted Property as well as any necessary service pipes, manholes, valves, fixtures and equipment, (all hereinafter called "Equipment").

That perpetual easement, hereinabove described, being situate in, through, over and across that parcel of real estate located in the Buckeystown Election District, Frederick County, Maryland, described and conveyed in a deed unto the COUNTY from the State Highway Administration of the Department of Transportation, acting for and on behalf of the State of

Maryland, dated May 17, 2006 and recorded in Liber 6115, folio 746, among the Land Records for Frederick County, Maryland.

The COUNTY and GRANTEE do hereby covenant and agree, for themselves, their heirs, personal representatives, successors and assigns, as follows:

- A. The Private Water Line shall be and remain the property of the GRANTEE, and the GRANTEE or its successors and assigns shall be responsible for all maintenance and repair of the Private Water Line.
- B. The GRANTEE shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in the easement area, deemed by the GRANTEE to interfere with the proper and efficient use of the easement for the purposes herein named, provided, however, that the GRANTEE, at its own expense, shall restore as nearly as possible the property to its original condition, including the backfilling of trenches, curbs, gutters, sidewalks, replacement of fences, resurfacing of roadways and reseedling of lawns and pasture areas, disturbed during the original construction or future maintenance, but not the replacement of structures, trees or other obstructions. These provisions regarding the restoration, replacement and reseedling shall be applicable during the original construction and future maintenance of the Private Water Line or equipment related thereto.
- C. The water line shall be installed below cultivation level, except for certain appurtenances typical to water facilities such as stacks, vents, manholes, etc., which may extend to or above ground level and the COUNTY reserves the right to construct and maintain roadways over the easement and to make any use of the easement herein granted not inconsistent with the rights conveyed herein or with the use of the easement by the GRANTEE for the purposes named. Among other uses inconsistent with such easement, the COUNTY shall not, within the easement area, erect any building or other structure, make a fill which will result in more than twelve (12) feet of ground cover over the proposed water line, excavate to an extent which will result in ground cover of less than four (4) feet over the proposed water line, or inundate the land with water.
- D. In the event the County Parcel is damaged by GRANTEE, the GRANTEE shall promptly notify the COUNTY and immediately repair any damages to the County Parcel.
- E. The GRANTEE shall place an above-ground marker where the Private Water Line enters the County Parcel from the Benefitted Property.
- F. Notwithstanding the aforementioned marker, the COUNTY and the GRANTEE acknowledge that the GRANTEE is not a member of Maryland's one call underground utility location service (Miss Utility). In the event the COUNTY damages the Private Water Line, the COUNTY shall not be required to repair or replace the Private Water Line nor shall the COUNTY be liable for any direct or for any consequential damages resulting from damage to the Private Water Line.

- G. The COUNTY and the GRANTEE acknowledge the Canal Run Homeowners Association, Inc. and PV I, LLC have certain rights to use the County Parcel according to the License Agreement dated September 27, 2005, and recorded in Liber 5641, folio 570 and the GRANTEE agrees to prevent interference with those rights with the construction and future maintenance of the Private Water Line.
- H. The COUNTY and the GRANTEE acknowledge there is no current defined or planned use of the County Parcel other than the uses in the aforementioned License Agreement. However, the GRANTEE agrees to move the Private Water Line at its expense if the County develops the County Parcel in a way that would disallow the Private Water Line in the proposed location and/or configuration.
- I. The GRANTEE shall indemnify, defend and hold the COUNTY harmless from and against any and all losses, costs, damages, claims or liabilities caused by the use of the easement area, described herein, by the GRANTEE and/or the GRANTEE's agents, employees or invitees.

AND THE COUNTY does hereby warrant specially the easements conveyed herein and do further covenant and agree to execute such other and further assurances thereof as may be requisite.

IN WITNESS WHEREOF, the parties have caused these presents to be executed, as of the day and year first hereinabove set forth.

ATTEST;

**BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND**


BY: _____ (SEAL)
Blaine R. Young, President

COUNTY

WITNESS



CANAM STEEL CORPORATION

BY:  (SEAL)
Ronald W. Peppé, II, Vice President

GRANTEE

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2012, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared BLAINE R. YOUNG, President of the Board of County Commissioners of Frederick County, Maryland, a body corporate and politic of the State of Maryland, and acknowledged the foregoing DEED OF EASEMENT to be the act of said body corporate and politic; and at the same time, he made oath in due form of law that he is the President of said body corporate and politic and is duly authorized to make this acknowledgement on its behalf.

WITNESS my hand and Notarial Seal.

NOTARY PUBLIC

My Commission expires: _____

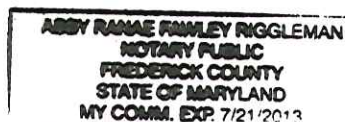
STATE OF Maryland, COUNTY OF Frederick, TO WIT:

I HEREBY CERTIFY, that on this 17th day of April, 2012, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Ronald W. Pappas II, Vice President of Canam Steel Corporation, a Delaware corporation, and acknowledged the foregoing DEED OF EASEMENT to be the act of said body corporate; and at the same time, he made oath in due form of law that he/she is the Vice President of said body corporate and ~~politic~~ and is duly authorized to make this acknowledgement on its behalf.

WITNESS my hand and Notarial Seal.

Abby Ranae Fawley Rigglesman
NOTARY PUBLIC

My Commission expires: 7-21-2013



CERTIFICATION OF PREPARATION

This instrument has been prepared under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.



Bruce N. Dean, Esq.

RECORD AND RETURN TO:

Beth A. Ramacciotti
Frederick County, Maryland
DUSWM, Engineering & Planning



Harris, Smariga & Associates, Inc.

Planners/Engineers/Surveyors
125 S. Carroll Street, Suite 100/Frederick, MD 21701
301-662-4488/FAX 301-662-4906

February 29, 2012
HSA Job No. 6482
Page 1 of 1

**Description of
Water and Sewer
Easement over the lands of
Board of County Commissioners of Frederick County, Maryland**

All that piece or parcel of land lying north of CSX Railroad and south of Lockhouse Drive, Buckeystown Election District No.1, Frederick County, Maryland. Being part of the lands conveyed by State Highway Administration of the Department of Transportation and Board of Public Works of Maryland unto the Board of County Commissioners of Frederick County, Maryland by deed dated May 17, 2006 and recorded among the land records of Frederick County, Maryland in Liber 6115 at Folio 746, said easement being more particularly described as follows

BEGINNING for the same at a point lying S27°06'48"E 103.65' from the Northern most end of the common property line between the said Board of County Commissioners of Frederick County, Maryland and PV I, LLC recorded among the said land records in Liber 2323 at Folio 107, thence with the said common property line the following course and distance

1. S27°06'48"E 30.58' to a point, thence leaving said common property line and running the following course and distance
2. S51°44'20"W 81.54' to a point, said point lying on the common property line between the Board of County Commissioners of Frederick County, Maryland and Canam Steel Corporation as recorded among the said land records of Frederick County, Maryland in Liber 1032 at Folio 468, thence following said common property line the following course and distance
3. N27°06'48"W 30.58' to a point, thence leaving said common property line and running the following course and distance
4. N51°44'20"E 81.54' to the place of beginning.

The amount of land contained by the foregoing amounts to 2,446 square feet or 0.056 acres more or less.

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